

Oct 25<sup>th</sup>, 2007  
Commission's Secretary  
Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Room TW-A325  
Washington, DC 20554  
Re: WC Docket No. 06-210  
CCB/CPD 96-20

### **EX PARTE COMMENTS ON PETITIONER'S SANCTION MOTION**

Dear FCC:

I, Joseph Kearney, make these comments voluntarily and without compensation to assist the Federal Communications Commission (FCC) in its consideration of the Sanctions Motion of Petitioner in the above referenced proceeding.

I had been employed in the telecommunications industry for over twenty years, more than ten of which were spent in sales for both Bell of Pennsylvania and AT&T. I have read Petitioner's sanctions motion and Petitioner's further justification requesting that the FCC impose \$500 million in sanctions against AT&T.

The \$500 million, granted, is a substantial amount of money, but it is relative. I've witnessed AT&T more than once; in what I would term foolhardy ventures wasting, in the process, billions of dollars of stockholders' equity without blinking an eye - e.g. the purchase and eventual destruction of the NCR Corporation. How many lives did that negatively affect?

AT&T, in my opinion, has consistently operated, over many years, as a corporation without a conscience - as once again demonstrated in this case; obfuscating every possible argument without regard for the FCC's and the various Courts' time and resources – which, ultimately, belong to the American tax payers.

Petitioner noted that its \$500 million sanctions request was not material. I am in 100% agreement with that statement; which brings me to make the following conclusion and request:

Why shouldn't the sanctions imposed against AT&T be material? It was certainly material to Petitioner when AT&T denied access to PSE's 65% discount instead of the 25% discount on Petitioner's \$50 million a year in billing.

It was certainly material to Petitioner when AT&T, in effect, laughed in Judge Politan's face and placed shortfall charges on all the locations' bills while knowing well the Plans were not subject to charges. AT&T knowingly and intentionally put Petitioner (and many others) out of business. That is material.

It is also material to Petitioner that it has had to wait over a decade for an FCC decision due to the Commission's lack of resources which were exacerbated, in large part, by AT&T's unlawful actions.

The FCC has been burdened with this case due to the unlawful actions which AT&T, now tacitly concedes that it, engaged in by its failure to refute Petitioner's tariff analysis.

I am not a CPA, so I am no authority at what threshold materiality starts. I am, however, a tax payer and am nauseated by the waste of tax payer dollars as a result of AT&T's arrogance and what seems to me the malfeasance of a corporate giant.

I suggest; therefore, since AT&T's total assets are now reported at over \$267 billion, and the \$500 million figure requested by Petitioner is less than 1/534th of its total assets, that Petitioner's \$500 million sanction request is materially anemic and would equate to merely a slap on the wrist.

AT&T's blatant misconduct deserves to be material. I; therefore, support Petitioner's motion but for the sum of \$6 Billion in sanctions against AT&T - a figure equal to about 2% of AT&T's reported total assets.

A sanction of that weight I suggest, although not as severe as may be warranted, is certainly more in line with materiality than Petitioner's sanction request - especially considering the many years of willful misconduct and knowing abuse AT&T has subjected the Petitioner's, the Courts', and the FCC's valuable time and resources.

Respectfully submitted,  
//Signed Joseph J. Kearney//  
Joseph J. Kearney